

### **DETAILED ACTION**

The "Final" mailed 12/22/08 is vacated in view of the communication with applicants representative (see the "Interview Summary" attached; this interview is initiated by Applicants). During the communication, applicants admitted that the claim 19 limitation "about 3% to about 89%..." is a type-error and should be corrected to "3% to about 8%..."; thus, this obviates the 112/1-new matter rejection of claim 19 and dependent claims therefrom in the "Final". The amendment filed 9/2/08 which amends claims 19, 23-24, 30-31, 33-34, and 37, and cancels claims 22, 25-26, 28-29, 32, 35-36 and 44-51 has been entered previously (see p.2, the office action mailed 12/22/08); the instant claims 19-21, 23-24, 27, 30-31, 33-34 and 37-43 therefore are examined in this Office action.

### **EXAMINER'S AMENDMENT**

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview (initiated by applicants) with the applicants' representative David, Buckingham on 3/9/09 (see the attached "*Interview Summary*"); applicants agree to amend claim 19; this amendment would overcome the new matter rejection under 35 USC 112, first paragraph in the "Final" mailed 12/22/08).

#### **Amendment to the claim:**

Claim 19 (*Amended*). A composition for remineralizing tooth enamel and/or for treating or preventing one or more conditions selected from the group consisting of dental caries, tooth erosion, dentinal hypersensitivity and gingivitis in a mammal, wherein the composition comprises:

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an effective amount of a phosphoprotein preparation in combination with one or more carriers or diluents, wherein the phosphoprotein preparation comprises a partially cross-linked partial hydrolysate of casein or a caseinate, wherein the partially cross-linked partial hydrolysate has been obtained by partially hydrolysing casein or a caseinate to a degree of hydrolysis of about 3% to about ~~89%~~ 8% of the total number of peptide bonds in the casein or caseinate, wherein the partially hydrolyzing step is followed by partially cross-linking the partially hydrolysed casein or caseinate to produce a phosphoprotein preparation having a degree of cross-linking of between 10  $\mu$ mol and 250  $\mu$ mol cross-links per gram of the total phosphoprotein in the preparation;

a source of calcium ions; and

a source of phosphate ions, or a source of strontium ions.

*Conclusion:* claims 19-21, 23-24, 27, 30-31, 33-34 and 37-43 are allowed.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 8:30 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Weber Jon, can be reached at (571) 272-0925. The official fax number for Technology Center 1600 is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

/Samuel W. Liu/  
Examiner, Art Unit 1656  
March 12, 2009

/JON P WEBER/  
Supervisory Patent Examiner, Art Unit 1657